

No. 9/1/87-6Lab/2934.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s (i) Deputy Commissioner, Ambala. (ii) Administrator, Municipality, Barara, District Ambala.

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Ref. No. 260 of 1985

SHRI SHIV RAM, C/O SHRI SURINDER KUMAR SHARMA, INTUC OFFICE, RLY. ROAD, JAGADHRI AND THE MANAGEMENT OF THE MESSRS DEPUTY COMMISSIONER, AMBALA, (II) ADMINISTRATOR, MUNICIPALITY, BARARA, DISTRICT AMBALA

Present.—Shri Shiv Ram, workman, in person.

None for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—*vide* clause (c) of sub-section(i) of section 10 of Industrial Disputes Act, 1947, referred dispute between Shri Shiv Ram, workman and Messrs Municipality, Barara, District Ambala, to this Court. The terms of the reference are as under:—

“Whether termination of services of Shri Shiv Ram is just and correct, if not, to what relief is he entitled?”

Workman through his demand notice dated 3rd July, 1985, alleged that he had been working as a Clerk in the respondent management for the last three years. His services were terminated on 28th February, 1985, in violation of provisions of section 25(F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent management contested the dispute and contended that Labour Court has got no jurisdiction to entertain this reference. Applicant has no *locusstandi* to file this claim. Application is time-barred. It was further contended that workman was employed on daily wages basis and not on regular basis. Municipality, Barara have since been abolished. Services of applicant were terminated by Deputy Commissioner, Ambala,—*vide* his termination order, dated 28th February, 1985. It was further contended that at the time of termination of services of the applicant no notice, no retrenchment compensation was required under Haryana Municipal Services rule, 1982. It was also contended that services of applicant were not retrenched, so there was no necessity to get permission from Labour Department, Haryana. It was also contended that no person junior to applicant has been working in the respondent-management.

Applicant filed replication through which he controverted the assertions of the respondents.

On the pleadings of the parties the following issues were framed :

Issues :

1. Whether termination order regarding services of workman is illegal and unjust, if so, its effect.
2. Whether Labour Court has got no jurisdiction to try this dispute ? OPM
3. Whether claim is time-barred ? OPM
4. Relief.

Workman in support of his case examined in his evidence as AW-1 and then closed his evidence. Thereafter, respondent management was to lead evidence in rebuttal. But it absented. So *ex parte* proceedings were taken up against the management.

Applicant deposed that he joined service of Municipality, Barara. He was appointed by Deputy Commissioner, Ambala and was also terminated by Deputy Commissioner, Ambala. He further deposed that he rendered service from 30th September, 1983 to 28th February, 1985 and thereafter, he was removed from service without issuing any notice and without making payment of retrenchment compensation. Many juniors to him are still in the employment of respondent management.

Respondent-management at the initial stage contested the case of the workman but later on it has with drawn from the contest the reasons best known to it and no evidence in rebuttal was made by the respondent management. In other words the evidence of workman goes un rebutted and it has to be accepted as it is. Shri Shiv Ram in his statement has narrated above deposed that he remained in the employment of respondent management since 3rd September, 1983 to 28th February, 1985, which means that he worked in the employment of respondent more than 240 days, so at the time of termination of his services although it was due to abolishing of Municipality, Barara, notice should have been issued to him of the pay in lieu of notice period should have been paid to the workman and retrenchment compensation should have also been paid to this workman but no such compliance was made by the respondent-management which shows that there is an utter violation of provisions of section 25 (F) of the Industrial Disputes Act. So the workman is entitled to reinstatement with continuity in service and with full back wages.

In view of my above discussions I am of the considered opinion that had the Municipality, Barara, would have not been abolished in those circumstances the workman was entitled to reinstatement with continuity in service and with full back wages. But since the Municipality, Barara, has been abolished in those circumstances the workman is simply entitled to one month pay in lieu of notice period as well as retrenchment compensation only. I pass an *ex parte* award regarding the dispute between the parties accordingly.

V. P. CHAUDHARY,

Dated the 24th March, 1987.

Presiding Officer,
Labour Court, Ambala.

Endst. No. 683, dated the 27th March, 1987.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHRY,

Presiding Officer,
Labour Court, Ambala.

The 20th May, 1987

No. 9/3/87-6 Lab./2514.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Commet Enterprises, Plot No. 36, Sector 4, Faridabad.

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT, FARIDABAD

Reference No. 199 of 1985

between

SHRI NASRUDDIN, WORKMAN, C/O B.M.S. VISHAVKARMA BHAWAN, FARIDABAD AND THE RESPONDENT-MANAGEMENT OF M/S COMMET ENTERPRISES, PLOT NO. 36, SECTOR 4, FARIDABAD

Present —

Shri S. N. Sharma, for the workman.

Shri H. R. Dua, for the respondent-management.

AWARD

This reference under section 10 (i)(c) of Industrial Dispute Act, 1947 (Act No. 14 of 1947), as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred as the said Act) was made to this Court by the State of Haryana (Department of Labour),—*vide* its endorsement No. ID/FD/24-85/17852-57, dated 23rd April, 1985, to adjudicate upon the dispute of service matter covered by Second Schedule under section 7 of the said Act, arisen between Shri Nasruddin, workman and the respondent-management of M/s Commet Enterprises, Plot No. 36, Sector 4, Faridabad. Accordingly, it has been registered as reference No. 199 of 1985.

2. Nasruddin was in the service of the respondent as a plumberman since 7th November, 1983 and his services were terminated on 15th October, 1984. His allegations are that he was Secretary of workers

Union and management used to pay him Rs. 650/- per month only while he was required to sign against the payment of Rs. 825/-. He had protested against the same and on 11th October, 1984, he was beaten and against the same he had lodged a report with the police. According to him he has been ousted in an arbitrary manner and he be reinstated into the job with full back wages.

3. On notice, respondent appeared and contested the said reference. According to them, he was employed with effect from 15th April, 1984 upto 15th October, 1984 and he was accordingly spared as per terms and condition of the appointment letter. It is claimed that he has no force in his claim petition.

4. My learned predecessor had framed a following issue on 10th September, 1985:—

(i) As per reference ?

5. In support of the same turner of the respondent has appeared while on the other hand there is statement of Nasruddin, Mohinder Singh and Shiv Kumar have also been examined by him. I have heard the parties as represented above. My findings is as below.—

6. Issue No. 1.—In between the parties there is dispute about the date of appointment. According to Nasruddin, he was appointed on 7th November, 1983, while according to the respondent he was appointed on 15th April, 1984. This workman has deposed on oath about his date of appointment. Mohinder Singh as well as Shiv Kumar Sharma have also stated in his favour. This date of appointment has been mentioned by him in demand notice, claim statement, complaint to the police dated 11th October, 1984, 13th October, 1984, and replication also. He has no documentary evidence with him. On the other hand respondent is replying on application, dated 14th April, 1984 Ex. M-1, appointment letter, dated 15th April, 1984 Ex. M-2 and termination letter Ex. M-3, dated 15th October, 1984. Shri Sharma has drawn my attention to the signatures on application Ex. M-1 and so called appointment letter Ex. M-2 and has contended that the same are falsely manufactured one to create false evidence in favour of the respondent since signatures thereon are not of this Nasruddin. On behalf of the respondent it is submitted that these are original documents and bear signature of this workman. I am afraid that it is not correct. I have an advantage of knowing URDU language. The signatures on demand notice claim statement, applications, power of attorney and signature in court also indicate that its writer has in mind to write the same correctly and that is why he has written the such name. On the other hand, the writer of name in Ex. M-1 and M-2 has no such sense and it appears that this name has been copied only otherwise its writer does not appear to have knowledge of Urdu language. It is a serious matter about the *bona fide* of the respondent. This workman has dis-owned two disputed signatures on oath and management could not have courage to get the same compared with the admitted signatures on the case file. Now on one hand I have 3 statements on oath about the particular date while on the other hand there are falsely manufactured documents before me and as such I have to prefer the former and reject the latter. Accordingly, I adopt the date as 1st November, 1983. If the documents produced on the file I exclude then this workman is entitled to succeed. The period of his continuous service is of more than 240 days and he is entitled for protection. No retrenchment compensation was paid to him and there has been clear violation of Section 25-F of the said Act. Accordingly, I reinstate him into his job with continuity of service and further with back wages. I may also add that according to chit Ex. W-1 on which signature of respondent's official has been admitted his monthly pay was Rs. 825 and as such he is entitled for the same. His back wages are to be paid at that rate. The amount is now to be calculated by the Labour Department under Section 33-C(1) of the said Act and it seems that Labour Department would not direct him to move the Labour Court, again for that purpose under Section 33-C (2).

The award is passed accordingly.

Dated the 19th March, 1987.

A. S. CHALIA,

Presiding Officer,

Labour Court, Faridabad.

Endst. No. 552, dated the 24th March, 1987

Forwarded (two copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of I.D. Act.

A. S. CHALIA,

Presiding Officer,

Labour Court, Faridabad.